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Subcommittee on Regulatory Reform and Oversight
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Thank you for giving me the opportunity to provide a written response to your hearing entitled "Federal Farm Programs: Unintended Consequences of Fruit and Vegetable Rules". You specifically ask about the impact the fruit and vegetable provisions of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) would have on growers and processors in the Midwest.

I will begin by providing a brief history of the fruit and vegetable provisions of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act). I then will note the statutory changes made by the 2002 Act, how the Department will implement these new provisions, and the expected impact on the fruit and vegetable industry.

Unlike previous farm legislation, the 1996 Act provided producers with almost complete planting flexibility. That provision received almost universal acclaim. Producers no longer were required to plant within restrictive and rigid government regulations. They then no longer had to produce a specific crop to receive program benefits were able to make planting decisions based on market signals and what was in their best economic interest.

The 1996 Act singled out fruits and vegetables as an exception to the planting flexibility rules. Planting of fruits and vegetables was restricted because of the concern that small increases in fruit and vegetable acreage could be devastating to the traditional growers of these crops.

The 1996 Act imposed different rules for traditional and non-traditional producers of fruits and vegetables: the traditional fruit and vegetable producer could grow these crops on program crop acres; and the non-traditional fruit and vegetable grower (farms or producers without a prior history of growing these crops) could not grow these crops.

The 1996 Act also imposed payment reductions when fruits and vegetables were grown on program crop acres; again the rules were different for traditional and non-traditional producers of fruits and vegetables. When traditional growers planted fruits and vegetables on program crop acres, the producers had to forgo an acre of program payments for each acre of fruits and vegetables grown on program acres. Payments were taken away from these producers so they would not be "subsidized' for growing fruits and vegetables.

If a non-traditional grower of fruits and vegetables planted these crops on program crop acres, then the 1996 Act required the contract between the farmer and the government to be terminated. This meant that the producer would not receive payments for the year in violation and any future years remaining in the -year contract. In lieu of termination, the producer could forgo payments on the program acres for the year of the violation and the 1996 Act also gave the Secretary the authority to assess an additional payment reduction. Since 1996, the additional payment reduction has been equal to three times the market value of the fruit and vegetable. The additional payment reduction was applied to payments in the year of the violation and any subsequent years remaining in the seven-year contract.

The fruit and vegetable statutory provisions of the 2002 Act are essentially the same as the 1996 Act, with the following important exceptions:

1. Planting fruits and vegetables, except perennials, is no longer a violation; the violation occurs when the fruit and vegetable is harvested. Many producers inadvertently planted fruits and vegetables on program crop acres, reported this to the

Farm Service Agency, destroyed the crop, but were still in violation of the 1996 Act. The 2002 Act allows producers to destroy the fruit and vegetable without benefit and not be in violation of any fruit and vegetable regulation.

2. The 1996 farm bill authorized a seven-year contract, so a payment reduction equal to value of fruits and vegetables was applied to subsequent years' payments. The 2002 farm bill authorizes a one-year contract, so a payment reduction cannot be applied to a subsequent year's payment.

3. The 2002 Act allows farms to opt out of the program for any year and the farm will: not receive any direct and counter-cyclical payments; be eligible for loans and loan deficiency payments; be allowed to plant unlimited acres of fruits and vegetables; be able to enroll in succeeding years and receive full program benefits.

The 1996 Act established bases acres for wheat, feed grains, cotton, and rice. Nationally, base acres equal 212 million acres. Because producers of these crops can update their bases and oilseeds can establish bases for the first time, base acres could increase by 50 to 75 million acres. These additional base acres potentially reduce the "pool" of acres available for fruit and vegetable plantings.

Many producers that grow fruits and vegetables in the Midwest and many companies that contract with these growers have approached us with their concerns. They are concerned that the 2002 Act will increase the number of acres on which producers may <u>not</u> plant fruits and vegetables, due primarily to the addition of soybeans as a crop eligible for the establishment of base acres. This is a correct interpretation of the statutory provision. The Administration has no discretion in implementing this provision.

We listened to all sides and tried to balance all concerns within the leeway we had and where we came out. I heard many different viewpoints expressed by producers,

businesses, and others concerned about this issue. The Secretary has used any discretionary tools available to her to strike a balance between opposing viewpoints. After many discussions, we understand Midwest farmers and companies are satisfied with the way the Department is administering the program. Traditional fruit and vegetable growers can plant these crops if they are willing to give up program benefits on those acres. The industry can attract non-traditional growers if the market returns from growing fruits and vegetables outweigh the benefits of participating in the direct payment program.

I understand that the fruit and vegetable planting flexibility provisions have been controversial, and we have heard compelling arguments from those who think the restrictions and penalties are too severe and from those who think the opposite. While I am a firm believer in the principle of planting flexibility, I am also concerned about how small increases in fruit and vegetable acreage can be very disruptive to the market. We do not want any market disruption to be the result of government programs.

For these very reasons, we have been careful to take a neutral approach to the fruit and vegetable rules that will be published shortly. We have listened carefully to the arguments and have developed the fruit and vegetable rule to minimize the government's role in influencing a producer's decision to plant fruits and vegetables. We have made no changes to the 1996 rules, except for those required by the 2002 Act as outline above. Both the 1996 and 2002 Acts, and they way the Department has implemented these provisions, gives the industry the ability to attract new acres if market conditions warrant, without giving the program participant an unfair advantage in being able to receive both government payments and fruit and vegetable income on the same acres. Thank you for giving me the opportunity to address this situation.